# Minutes of Regular Meeting COLORADO RIVER BOARD OF CALIFORNIA

Wednesday, November 15, 2006

A Regular Meeting of the Colorado River Board of California (Board) was held in Meeting Room 321 of the Ontario Airport Marriott Hotel, at 2200 East Holt Avenue, Ontario, California, on November 15, 2006.

#### **Board Members and Alternate Present**

Dana Bart Fisher, Jr., Chairman

James H. Bond John W. McFadden Thomas M. Erb John Pierre Menvielle

John V. Foley

Terese Marie Ghio Jeanine Jones, Designee

Henry Merle Kuiper Department of Water Resources

## **Board Members Absent**

James B. McDaniel Christopher G. Hayes, Designee
Department of Fish and Game

#### Others Present

Steve B. Abbott David R. Pettijohn Mark D. Beuhler Steven B. Robbins John L. Scott John Penn Carter William I. DuBois Peter S. Silva Tony Ferraro Ed W. Smith David Fogerson James J. Taylor Charles Van Dyke William J. Hasencamp Michael L. King Joseph A. Vanderhorst

Bill Knutson Le Val Lund

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Jay W. Malinowski

Dirk S. Marks William S. Abbey Jan P. Matusak Abbas Amir-Teymoori

Dan Parks J.C. Jay Chen

Roger K. Patterson Christopher S. Harris McClain Peterson Gerald R. Zimmerman

#### **CALL TO ORDER**

Bill D. Wright

Chairman Fisher announced the presence of a quorum and called the meeting to order at 10:10 a.m.

#### OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD

Chairman Fisher asked if there was anyone in the audience who wanted to address the Board on items on the agenda or matters related to the Board. Hearing none, Chairman Fisher moved to the next agenda item.

#### **ADMINISTRATION**

## Approval of Minutes

Chairman Fisher noted that approval of the October 11<sup>th</sup> meeting minutes were required. Upon the motion of Ms. Jones, seconded by Mr. Bond, and unanimously carried, the Board approved the October 11<sup>th</sup> meeting minutes.

# 2007 Board Meeting Schedule

Mr. Zimmerman reported that the proposed meeting schedule for the next calendar year was included in the Board folder. Mr. Zimmerman asked that Board members review the proposed schedule and be prepared to approve the meeting schedule at the December meeting.

## State of California Employee's Ethics Training

Mr. Zimmerman reported that biennial ethics training is required, by statute, to be completed by each of the Board members. The training course can either be taken via an online workshop presentation or a VHS video presentation scheduled prior to a future Board meeting. After some discussion, the Board members decided to individually receive the certification online.

## PROTECTION OF EXISTING RIGHTS

#### Colorado River Water Report

Mr. Harris reported that as of November 2<sup>nd</sup>, the storage in Lake Powell was 12.5 million acre-feet (maf), or 52 percent of capacity. The water surface elevation was 3,608 feet. The storage in Lake Mead was 13.96 maf, or 54 percent of capacity, and water surface elevation of 1,126 feet. Total System storage was about 34.2 maf, or 57 percent of capacity. Last year at this time, there was 34.8 maf in storage, or 58 percent of capacity. Storage is down about 0.6 maf from this time last year.

Mr. Harris reported that precipitation from October 1<sup>st</sup> to November 2<sup>nd</sup> is about 167 percent of normal, and the snowpack is about 121 percent of normal. The observed April through July runoff into Lake Powell for Water Year 2006 was about 5.32 maf, or 67 percent of normal. The projected 2007 water year unregulated inflow into Lake Powell is about 11.8 maf, or about 98 percent of normal.

Mr. Harris added that the Reclamation forecast of consumptive use (CU) for the State of Nevada to be at their entitlement of 300,000 acre-feet, and for Arizona the CU is forecast to be 2.798 maf, and for California the consumptive use is forecast to be 4.256 maf. Overall CU in the Lower Basin is expected to be about 7.354 maf.

# State and Local Water Reports

Ms. Jones reported that it is too early to realistically know what the snowpack will be for this year. However, the National Weather Service has shared some thoughts about possible indicators of the climate for the rest of the water year. There is a weak El Nino in progress in the Pacific. There is a slight chance of increased precipitation. The January, February, and March forecasts show a 33 percent chance of being wetter than normal.

Mr. Foley reported that Diamond Valley Lake storage is about 760,000 acre-feet, or 94 percent of capacity; storage in Lake Mathews in 81 percent of capacity, and storage of Lake Skinner is 86 percent of capacity; overall storage in the MWD reservoir system is about 91 percent of capacity.

Mr. Erb of the Los Angeles Department of Water and Power (LADWP) reported that forecasts of the snowpack and water supply in the Eastern Sierra are not yet available.

# Colorado River Operations

Letter from Assistant Secretary of the Interior Limbaugh Regarding the Draft 2006 Upper Basin Hydrologic Determination

Mr. Zimmerman reported that on October 10<sup>th</sup>, Assistant Secretary of the Interior for Water and Science, Mr. Mark Limbaugh, responded to Senator Jon Kyl's request that the Department work closely with the Lower Division States in the development of the Final 2006 Upper Basin Hydrologic Determination. In his letter, Assistant Secretary Limbaugh assured Senator Kyl that Reclamation and the Department will fully consider all comments provided by entities within the Lower Division States, and that all comments are currently under review by Reclamation and the Department. Mr. Zimmerman stated that as of the current time, he had no indication on how the Department or Reclamation were likely to respond to comments on the draft hydrologic determination.

Reclamation's Proposed Rule-Making Process Regarding Non-Contract Mainstream Water Use in the Lower Basin

Mr. Zimmerman reminded the Board members of the discussion held at the October Board meeting, that in late-August Reclamation published a notice in the *Federal Register* regarding the initiation of a proposed rule-making process addressing the non-contract use of Colorado River mainstream water in the Lower Basin. Mr. Zimmerman stated that Reclamation currently estimates that approximately 10,000 acre-feet per year is diverted and used by non-contract water users in the three Lower Basin states. Reclamation anticipates establishing a process that will result in identifying these non-contract water uses, and where possible, legalize the non-contract use, or require that non-contract water users cease the use of mainstream water.

Comments from interested parties were to be received by Reclamation on or before October 17<sup>th</sup>. Pursuant to the Board's direction at the October meeting, Mr. Zimmerman stated that Board staff had finalized a comment letter to Reclamation. The final letter, included in the Board folder, addressed the proposed rule-making process and several issues that should be addressed by Reclamation during that process. Mr. Zimmerman informed Board members that a copy of the comments prepared by the Colorado River Commission of Nevada had also been included in the Board folder.

Recent Agreements to Participate in Reclamation's Demonstration Program to Create Intentionally Created Surplus

Mr. Zimmerman indicated that the Board folder included copies of two recent letters of consent from the Palo Verde Irrigation District (PVID), Coachella Valley Water District (CVWD) regarding agreements reached with Reclamation in conjunction with Reclamation's demonstration program to create "intentionally created surplus" (ICS) water to be stored in Lake Mead. The California agricultural districts' letters provided consent to the agreement involving The Metropolitan Water District of Southern California (MWD) and Reclamation; while the second consent letter provided the consent of PVID, CVWD, and MWD associated with the agreement between the Imperial Irrigation District (IID) and Reclamation. In response to a question by Mr. Zimmerman, representatives of the CVWD, IID and MWD who were in the audience indicated that the agreements would soon be executed by each of their Districts.

Nevada's 2005 Consumptive Use and Request for Article II(B)(6) Water

Mr. Zimmerman reported that on November 3<sup>rd</sup>, the Colorado River Commission of Nevada (CRC) informed Reclamation that the State of Nevada may be determined to have exceeded its basic apportionment of mainstream water by approximately 1,778 acre-feet in 2005. In its letter, the CRC requested that this amount of potential over-use be considered to have been consumptively used according to Article II(B)(6) of the Consolidated Decree in *Arizona v. California*. The basis for the CRC request is that the State of Arizona is likely to have not used its full apportionment of 2.8 million acre-feet in 2005. A representative of the CRC in the audience, Mr. McClain Peterson, indicated that Reclamation would likely make that determination in the near future.

#### All-American Canal Lining Lawsuit

Mr. Zimmerman provided an update on the status of the All-American Canal Lining lawsuit pending in the United States Ninth Circuit Court of Appeals. He reported that the State of California recently filed an *amicus* brief in support of the defendants/appellees. The brief lays out an argument in favor of the District Court's original decision. Mr. Zimmerman indicated that it was still his understanding that the case was still scheduled for briefing and argument on December 4<sup>th</sup>.

#### **Basin States Discussions**

Seven Basin States Representatives Meetings

Mr. Zimmerman provided a comprehensive overview of the continuing discussions among representatives of the Colorado River Basin states. He stated that since the October Board meeting, eight meeting of representatives of the Basin states have been held. These meetings have focused upon the discussions involving resolution of issues in the Lower Basin related to the Lower Basin's forbearance agreement, obtaining reports from Reclamation on the status of its NEPA/EIS process on developing guidelines for the declaration of shortages in the Lower Basin and for the coordinated operations of Lakes Powell and Lake Mead, refining the draft Basin States Agreement, and reduced deliveries of water to Mexico in accordance with the 1944 Mexican Water Treaty during times of shortages in the United States.

Mr. Zimmerman stated that the discussions among the Lower Basin states have resulted in general agreement on: 1) shortage sharing between Arizona and Nevada; 2) accounting for water use of Non-Colorado River System water, e.g., Nevada's non-system groundwater; and 3) accounting for Nevada's conserved water on the Virgin and Muddy Rivers that is associated with pre-Colorado River Compact water rights. The major task now is to draft the exhibits to the Lower Basin Forbearance Agreement that fully describe the terms of the agreement that has been reached. Nevada has set a meeting for November 14<sup>th</sup> for representatives from Arizona and Nevada to continue to draft the exhibits. Unfortunately, principals from California could not attend this meeting. An effort will be made to schedule a meeting where principals from all three of the Lower Basin states can be in attendance. Mr. Zimmerman reported that before the exhibits and the forbearance agreement are finalized, these documents would be brought to the Board for its consideration.

Mr. Zimmerman reported that the Basin States Technical Committee met on October 31<sup>st</sup> to obtain a status report from Reclamation on its development of the resource analysis associated with the NEPA/EIS process on the development of guidelines for declarations of shortages in the Lower Basin and for the coordinated operations of Lakes Powell and Lake Mead. During the meeting Reclamation staff described the resources that are being analyzed and the approach that is being made in analyzing the resources. Reclamation staff indicated that representatives of several environmental groups have requested a similar briefing,

Mr. Zimmerman indicated that three meetings among the Lower Basin states and the Basin States Technical Committee were held to discuss provisions in the 1944 Mexican Water Treaty related to reductions in the delivery of water to Mexico during an extraordinary drought. This Technical Committee, composed of attorneys and engineers, has focused its discussions on the interpretation of the language contained in the Treaty and how the reductions in the delivery of water to Mexico should be applied. Mr. Zimmerman stated that the Technical Committee is continuing to meet and will hold its next meeting in early January 2007.

Finally, Mr. Zimmerman reported that representatives of the Basin states met in Las Vegas, Nevada, on October 30<sup>th</sup>. He stated that the primary focus of the meeting was on the status of the discussions in the Lower Basin regarding: 1) shortage sharing between Arizona and Nevada; 2) accounting for water use of Non-Colorado River System water, e.g., Nevada's non-system groundwater; and 3) accounting for Nevada's conserved water on the Virgin and Muddy

Rivers that is associated pre-Colorado River Compact water rights. During the meeting there was also discussion regarding: 1) efforts of the Technical Committee on Mexico and 2) the status of Reclamation's NEPA/EIS process in development of guidelines for declaration of Shortages in the Lower Basin and for Coordinated Operations of Lake Powell and Lake Mead. Status reports were provided on: 1) the Basin states weather modifications efforts; 2) California's and Reclamation's intentionally created surplus (ICS) programs in 2006 and 2007; 3) the litigation on the All-American Canal Lining Project and Glen Canyon Dam operations; and 4) operations of the Yuma Desalting Plant in 2007.

During the October 30<sup>th</sup> Basin states meeting, it was determined that revisions to the draft Basin States Agreement that was transmitted to then-Secretary Norton, along with the Seven Basin States' Preliminary Proposal Regarding Colorado River Interim Operations, on February 3, 2006, were warranted based upon recent discussions among the states. As a result, the Basin States Drafting Committee met in Las Vegas on November 13<sup>th</sup> to review the draft Basin States Agreement and discuss areas where modifications were warranted. Mr. Zimmerman indicated that a revised draft of the Agreement will be available for the next meeting of the Basin states representatives, which is set for December 15<sup>th</sup> following the Colorado River Water Users Association meeting in Las Vegas, Nevada.

Mr. Zimmerman also reported that he had recently received some information from Arizona's Central Arizona Water Conservation District regarding its proposed 50-year Strategic Plan. In that Plan, he indicated that the CAP is proposing to increase the capacity of the CAP canal up to approximately 3,600 cfs. Currently, by statute, the CAP is prohibited from conveying more than 2,500 cfs, unless the reservoir system is full and is making flood control releases. Mr. Zimmerman informed the Board that this recent proposal needs to be studied within California and then discussed in the context of the Basin States forum prior to making any final decisions. Mr. Zimmerman believes that the CAP proposal is being presented at this time in order to gauge reaction among the other six Basin states, particularly in California and Nevada.

#### Colorado River Long-Term Augmentation Options Project Status Report

Mr. Zimmerman provided an in-depth overview of the Colorado River Long-Term Augmentation Options Project being funded by the Southern Nevada Water Authority. The consultants met with the Basin States Technical Committee on October 20<sup>th</sup> to discuss the status of their effort and to review the white papers that have been prepared. During the meeting the Technical Committee members discussed the white papers that have been prepared and identified those projects that should be considered further. Mr. Zimmerman stated that those projects that the Technical Committee indicated should be considered further include:

- Vegetation Management
- Brackish Water leaving the United States
- Conjunctive Use and Water Banking in the Lower Basin
- Ocean Desalinization in the United States and Mexico
- Colorado River Imports
- Stormwater Runoff (Gila River/Painted Rock Reservoir)

The Technical Committee was of the opinion that the other options that were being considered by the consultants either were described adequately in the white papers or were projects that should be left for the individual states to develop.

Mr. Zimmerman also reported that during the October 30<sup>th</sup> Basin states meeting, the consultants provided a status report of their activities and the efforts of the Basin States Technical Committee. It was reported that the project is on schedule and that it is anticipated that the project will be completed in late-February 2007.

## Colorado River Environmental Activities

Status of the Glen Canyon Dam Operations Lawsuit

Mr. Harris provided an overview of the recent meeting of the Glen Canyon Dam Adaptive Management Program's Technical Work Group (TWG) held in Phoenix, Arizona, on November 8-9, 2006. At this meeting, the TWG addressed several issues, including the following: (1) Received updates regarding the Fiscal Year 2007 work plan for the Grand Canyon Monitoring and Research Center (GCMRC); (2) received updates from the Science Advisors Panel regarding the various science plans associated with the GCMRC's Long-Term Experimental Plan; (3) discussed the potential scheduling and recommendation for conducting a Beach-Habitat Building Flow (BHBF); and (4) received a preliminary update on the development of the Fiscal Year 2008 budget.

Mr. Harris stated that data collected through the Glen Canyon Dam Adaptive Management Program (AMP) has resulted in a scientifically-based acknowledgement that the Glen Canyon Dam Operations EIS preferred alternative of Modified Low-Fluctuating Flows (MLFF) may not be the best flow regime for the many natural and physical resources in Glen Canyon National Recreation Area and Grand Canyon National Park. Consequently, the AMP and the GCMRC have been analyzing and evaluating four different experimental flow regimes. All of the experimental flow regimes share some common characteristics (i.e., non-flow-related components), as well as contain unique characteristics (i.e., flow-related components). Mr. Harris identified the common non-flow components, which include, for example, the following:

- Construction and use of a temperature control structure;
- Control of non-native coldwater fishes (i.e., rainbow and brown trout);
- Humpback chub disease and parasite research;
- Humpback chub population translocation;
- Creation of a Humpback chub refugia
- Humpback chub population augmentation; and
- Implementation of short-term field experiments to address specific science questions related to various experimental flow options.

Mr. Harris indicated that the flow-related components typically involve modification in flow releases through Glen Canyon Dam, and involve variations in ramping rates and the volumes associated with monthly releases through the Dam. He stated, for example, that one option would slightly modify the flow releases from that of the existing MLFF flow regime (i.e., the Base Case). Another option would tend to simulate the Seasonally-Adjusted Steady Flows (SASF) alternative, and would most closely mimic a "natural hydrograph" for this reach of the

river, i.e., low flows in late summer and winter months and large flows in the spring and early summer months. The other two options are generally combination of various flow components from the existing MLFF regime and the proposed SASF alternative.

Mr. Harris reported that depending upon the precise operational scheme and flow regime selected there would be potential economic impacts to those contract holders of Colorado River Storage Project (CRSP) hydroelectric energy. Currently, there are ongoing discussions among the CRSP contract holders, Basin States, Western Area Power Administration, and Reclamation regarding the scope of the potential economic impacts. He reported that the TWG did take a 'straw vote' regarding a recommendation of a preferred experimental flow regime option for the AMWG's consideration at its early-December meeting. Based upon the results of the poll, the TWG generally supported the two variations of the MLFF that protected or maximized, to the extent possible, the economic benefits of Glen Canyon Dam hydropower generation, yet provided some of the SASF flow components for the benefit of the downstream natural resources.

Finally, Mr. Harris reported that the TWG reconsidered the need to conduct another BHBF experiment. GCMRC scientists have reported that a significant amount of sediment recently discharged into the mainstream near the confluence with the Paria River. This sediment is the result of monsoon storming in the region during the summer and fall months. Without a BHBF, this sediment is likely to slowly migrate down the main channel of the river without increasing the size of beaches or improving backwater habitats. The TWG and GCMRC advocate conducting some form of short-term "spike-flow" release to move much of this sediment up onto beaches and deposit new mud and sand in backwaters along the mainstream through the Grand Canyon. Mr. Harris indicated that the TWG recommendation will be presented to the AMWG for their consideration at its December meeting.

Draft Programmatic Environmental Impact Report – Salton Sea Ecosystem Restoration Program

Mr. Harris also briefly reported on the October 19<sup>th</sup> release, by the Departments of Fish and Game and Water Resources, of the draft Programmatic Environmental Impact Report (PEIR) related to the proposed Salton Sea Ecosystem Restoration Program. The draft PEIR describes eight alternatives and compares these to existing conditions and two No Action alternatives. In association with public review and comment on the draft PEIR, three public workshops will be held on November 14-16, 2006. The comment period on the draft PEIR began on October 19<sup>th</sup> and closes on January 16, 2007. Mr. Harris indicated that copies of the draft PEIR can be obtained from the Department of Water Resources.

## WATER QUALITY

## Salinity Control Forum and Work Group Meetings

Mr. Amir-Teymoori briefed the Board about the recently held Colorado River Basin Salinity Control Forum (Forum), the Advisory Council (AC), and the Form's Work Group meetings that were held in Scottsdale, Arizona, on October 24-26. The main purpose of the Work Group meeting was to review the Forum's meeting agenda and to prepare report to the

Forum and review the recommendations to be made to the Forum. The AC meeting was held on October 25<sup>th</sup> in the morning and reconvened in the afternoon of October 26<sup>th</sup> to hear the issues brought to the AC by the Forum. There was a tour on October 25<sup>th</sup> of the City of Scottsdale water treatment facilities.

Mr. Amir-Teymoori reported that the issues at the Forum meeting that required Forum's decision and approval were as follows:

- The Forum concurred with a recommendation by the Forum's Cost-Share Rate Committee that the existing rate of 75/25 for the Natural Resources Conservation Service (NRCS) on-farm project funding remains for FY07, and the Committee continues to work with NRCS to find an appropriate formula to be applied in the future. The Forum approved a motion to take the issue to the AC for approval.
- The Forum approved the Work Group's recommendation that the NRCS's Manila Project become an approved salinity project. The cost effectiveness of the Manila Project is \$46/ton.
- The Forum discussed the Huntington-Cleveland (HC) Project. The HC is a \$45 million approved project (about \$25 million is funded by Reclamation and \$20 million is provided by a local power company through a cooperative agreement with Reclamation). However, it was recognized that there is a \$12 million shortfall to complete the project due to misinterpretation of the cooperating agreement. Reclamation intends to fund about \$6 million of the shortfall from the Basin states' fund and the remaining \$6 million will be provided through a loan from the State of Utah. The Forum's concern was that Reclamation did not involve the Forum in the process as the cooperative agreement was being developed. The Forum approved the additional funding for the HC project with the proviso that Reclamation execute a new cooperative agreement and work with the Forum's Work Group on the contract, the cooperative agreement and the RFP process.
- The Forum decided to recommend to the AC that the same funding level as last year be requested for USBR and USDA (\$17.5 million for USBR and 2.5% of EQIP for USDA) for Fiscal Year 2008. In addition, the Forum approved a motion to recommend to the AC that the BLM funding level be increased by \$700,000. This would increase the BLM funding for the specific salinity control projects to \$1.5 million and the total BLM funding for land and water to about \$5.9 million.

He also indicated that during the AC meeting, the federal agencies (USGS, USDA, USFWS, EPA, BLM, and Reclamation) provided their accomplishment reports to the AC. The major items discussed at the AC meeting were as follows:

- The AC elected Mr. Gerald R. Zimmerman (Forum member from California) as the Chair and Patrick Tyrrell (Forum member from Wyoming) as the Vice-Chair of the AC;
- The AC approved the Forum's recommendation on the cost share rate as mentioned earlier;

- The AC approved Forum's recommendation on the funding level for salinity control for each of the federal agencies in FY-2008; and
- The Chairman of the Advisory Council appointed Mr. Rod Kuharich (Forum member from Colorado) as the Chair of Cost-Share Rate Committee and Mr. Steve Miller (Work Group member of Colorado) the Chair of Cost-Share Rate Sub-committee.

Finally. Mr. Amir-Teymoori reported that it was decided that the next meetings of the Colorado River Basin Salinity Control Forum and Advisory Council would be hosted by the State of Wyoming in June 2007.

State Water Resources Control Board's Notice of Opportunity for Public Comment on the proposed Federal Clean Water Act Section 303(d) List of Water Quality Limited Segments for California

Mr. Amir-Teymoori reported that the State Water Resources Control Board (SWRCB) recently published a Notice on a proposed revision to the Clean Water Act Section 303(d) list of water quality limited segments for California. In the notice, the SWRCB recommended that the listing of the Colorado River (Imperial Dam to California-Mexico) as water quality limited for selenium, and the All-American Canal as water quality limited for specific conductance, sulfate, and total dissolved solids. However, because of comments received from a number of entities, consideration of the All-American Canal was pulled off the agenda. The Colorado River below Imperial Dam remained on the list. The SWRCB was expected to consider the list for adoption at its October 25<sup>th</sup> meeting. Comments on the proposed listing were due by October 20<sup>th</sup> and pursuant to the Board's direction at its October meeting, the Board's comment letter was finalized and submitted to the SWRCB. Mr. Amir-Teymoori stated that a copy of the final letter had been included in the Board folder.

Radioactive Tailings Site at Moab, Utah

Mr. Amir-Teymoori reported that the Board folder included a short article from the Salt Lake Tribune regarding the U.S. Department of Energy's recent release of request for proposals (RFPs) for the cleanup of the Moab uranium mill tailings site. The RFP requests contractors to submit bids associated with removing nearly 12 million tons of radioactive tailings and moving them approximately thirty miles north to a repository site near Crescent, Utah.

#### ADJOURNMENT

Upon a motion of Mr. Bond, and the second of Mr. Foley, and the unanimous consent of the Board members, the regular meeting of the Colorado River Board of California was adjourned at 12:00 p.m.

Executive Director